

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1065 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

RUGHNATHBHAI R DALWADI

Versus

DIVISIONAL CONTROLLER

Appearance:

MR HK RATHOD for Petitioner

MR SM MAZGAONKER for Respondent

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 21/03/98

ORAL JUDGEMENT

The petitioner, an employee of the Gujarat State Road Transport Corporation, by this petition challenges the award of the Labour Court, Ahmedabad, dated 19th June 1986, passed in Complaint No.77 of 1981 in Reference (LCA) No.594 of 1980, under which he has been ordered to be reinstated back in service, but 50% backwages have been denied.

2. The learned counsel for the petitioner contended that denial of 50% backwages to the petitioner by the Labour Court only on the ground that the facts of the case are complicated, is wholly arbitrary and unjustified.

3. On the other hand, the learned counsel for the respondent contended that the Labour Court has passed a just and reasonable award and as such, this Court, sitting under Article 227 of the Constitution of India, may not interfere.

4. I have given my thoughtful considerations to the submissions made by learned counsel for the parties.

5. The petitioner was ordered to be dismissed from services of the Corporation on the alleged misconduct of misappropriation of amount of the Corporation found proved in the departmental enquiry. However, the Labour Court found the dismissal of the petitioner from services of the Corporation to be illegal, inappropriate and unjust and consequently the petitioner was ordered to be reinstated back in service. But he was ordered to be given only 50% of backwages. 50% of backwages have been denied as the Labour Court was of the view that considering the complicated facts of this case, only 50% backwages have to be awarded to the employee. The ground which has been given for denial of 50% backwages is wholly perverse. The complicated facts of the case could not have been taken to be a ground by the Labour Court for denial of 50% backwages.

6. In the result, this Special Civil Application succeeds and the same is allowed and the award of the Labour Court dated 19th June 1986, passed in Complaint No.77 of 1981 in Reference (LCA) No.594 OF 1980, is set aside only to the extent where it relates to denial of 50% backwages to the petitioner. The petitioner shall be entitled for all consequential benefits following on setting aside of that part of the award. Rule made absolute. The respondent is directed to pay to the petitioner, Rs.1,000/- by way of costs of this Special Civil Application.

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(sunil)